IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

THURSDAY, THE 20TH SEPTEMBER 2007 / 29TH BHADRA 1929

WP(C).No. 28063 of 2007(N)

PETITIONER:

ROY MATHEW, S/O.MATHEW, AGED 43 YEARS,
KANJIRATHUKUNNEL HOUSE, 2/65, UDAYAMPEROOR,
KANDANAD P.O., ERNAKULAM DISTRICT.

BY ADV. SRI.R.DIVAKARAN
SRI.VINUCHAND

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY
DIRECTOR GENERAL OF POLICE,
POLICE HEAD QUARTERS, THIRUVANANTHAPURAM.

2. SUB INSPECTOR OF POLICE,
UDAYAMPEROOR POLICE STATION,
UDAYAMPEROOR, ERNAKULAM DISTRICT.

3. BEENA JAYADEVAN, W/O.JAYADEVAN, AGED
35 YEARS, PENGUIN TRAVELS, VYAPARI BHAVAN,
PERUMANOOR, THEVARA, ERNAKULAM DISTRICT.

R1 & R2 BY G.P. SHRI P.A. SALIM

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. Balakrishnan Nair &
T.R. Ramachandran Nair, JJ.

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W.P.(C).NO.28063 of 2007-N

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Dated this the 20th day of September, 2007

JUDGMENT

Balakrishnan Nair J.

The petitioner purchased 13 cents of land by Ext.P1 sale deed dated 29/11/1995. Though he expended the entire money, unfortunately it was purchased in the name of the third respondent also at the time of execution of the sale deed. Later, he submits, he constructed a building there expending his money. Now the marriage between the petitioner and the third respondent has been dissolved as per order of the Family Court, a copy of which is produced as Ext.P2. Petitioner obtained Ext.P3 decree from the very same Family Court holding that he is entitled to get half share in the property covered by Ext.P1. On the strength of it, when the petitioner tried to enter the property, he is obstructed by the third respondent and her present husband. So, this writ petition is filed seeking the following relief:

> "To issue a writ in the nature of mandamus or any other appropriate writ, order or direction, directing the 2nd respondent to provide an effective and adequate police protection to the life of the petitioner, while he enters into his property purchased by the petitioner as per Ext.P1 sale deed."

We feel that for the above relief, the petitioner can and must move the

competent civil court and not the police. The police cannot be conceded power to execute the decree of a civil court. We feel that if the same is permitted, that will be the beginning of the end of several liberties of the citizens. Further, we notice that there is no provision of law in force in India authorising the police to execute the decree of a civil court. Petitioner's right to half of the property has been upheld by the civil court. He has to move the civil court again and get it partitioned.

In view of the above, the motion made before the police is ill-conceived and we cannot direct the police to help the petitioner. The writ petition fails and it is dismissed without prejudice to the contentions of the petitioner and his right to move other forum for appropriate reliefs.

(K. Balakrishnan Nair, Judge.)

(T.R. Ramachandran Nair, Judge.)

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